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In re Application of	:	
Akkar et al.	:	
Application No.: 10/520,806	:	DECISION
PCT No.: PCT/IB03/03120	:	
Int. Filing Date: 07 July 2003	:	ON
Priority Date: 09 July 2002	:	
Attorney Docket No.: 76.0726/PR	:	PETITION
For: Method To Secure An Electronic Assembly	:	
Against Attacks By Error Introduction	:	

This is a decision on applicants' "Petition Under 37 CFR 1.182" filed on 08 August 2007 and the supplementary submission filed on 09 August 2007.

### **BACKGROUND**

This international application was filed on 07 July 2003, claimed a priority date of 09 July 2002, and designated the United States. The International Bureau transmitted a copy of the published international application to the USPTO on 15 January 2004. Consequently, the thirty month period for payment of the basic national fee in the United States expired as of midnight on 10 January 2005 (since 09 January 2005 was a Sunday). On 10 January 2005, applicants filed *inter alia* the basic national fee.

On 13 April 2006, a Notification of Missing Requirements (Form PCT/DO/EO/905) was mailed to applicants, requiring the submission of additional claims fees, an executed oath or declaration of the inventors compliant with 37 CFR 1.497(a) and (b) and a surcharge under 37 CFR 1.492(h).

### **DISCUSSION**

Petitioner states in part that

A reply to the Notice of Missing Requirements was faxed to (571) 270-9872 on June 13, 2006 at 4:24 CST. The former partner of the undersigned submitted the reply while the undersigned was on an extended vacation.

However, when checking on this application status my assistant called the PCT Help Desk and was told that the reply that was submitted on June 13, 2006 was not on file in the IFW...

Applicants respectfully request that the reply to the Notice of Missing Requirements faxed on June 13, 2006 be considered a full response to the Notice of Missing Requirements. Attached with this petition is a copy of the reply packet that was sent on June 13, 2006 including the transmission verification report detailing the date and time of the fax transmission. Applicants respectfully request that any abandonment of this application be halted and the application be considered to be in good standing.

Thus, petitioner seeks to rely upon facsimile transmission evidence as a basis for the reply to be considered to have been timely filed. 37 CFR 1.8(b) provides that

*In the event that correspondence is considered timely filed by being mailed or transmitted in accordance with paragraph (a) of this section, but not received in the U.S. Patent and Trademark Office after a reasonable amount of time has elapsed from the time of mailing or transmitting of the correspondence, or after the application is held to be abandoned, or after the proceeding is dismissed, terminated, or decided with prejudice, the correspondence will be considered timely if the party who forwarded such correspondence:*

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;*
- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and*
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement.*

Petitioner has satisfied requirement (1).

Requirement (2) is satisfied by the filing of the supplemental submission on 09 August 2007, which included the additional copy of the correspondence.

Regarding requirement (3), petitioner has not provided an appropriate statement, made on the basis of first-hand knowledge, attesting to the timely transmission of the reply. Specifically, petitioner should provide a statement from his "former partner" attesting to the facts surrounding the alleged transmission of the reply. For this reason, the submitted docket sheets do not satisfy requirement (3).

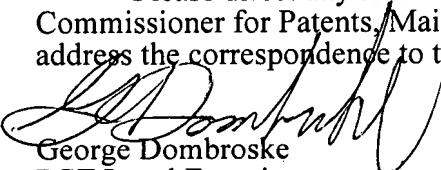
Though petitioner has requested treatment under 37 CFR 1.182, this petition is does not require treatment under 37 CFR 1.182. Therefore, the \$400.00 petition fee paid on 08 August 2007 is being refunded to Deposit Account No. 50-2299, as authorized by the Transmittal Letter filed on 10 January 2005.

### DECISION

The petition is **DISMISSED**, without prejudice.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision (extendable under 37 CFR 1.136(a)).

Please direct any further correspondence with respect to this matter to the Assistant Commissioner for Patents, Mail Stop PCT, P.O. Box 1450, Alexandria, VA 22313-1450, and address the correspondence to the attention of the Office of PCT Legal Administration.

  
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